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Burbank, as liquidating trustee for
nominal defendants Savant Addiction
Medicine, LLC and Savant HWP
Holdings, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SCOTT FREEMAN, M.D., as trustee for
the SCOTT MITCHELL FREEMAN
REVOCABLE TRUST, dated March 10,
2012, for itself and as assignee of
FERDINAND BELGA;

Plaintiff,

vs.

STEPHEN HURST; SUNRAY ASSET
MANAGEMENT, INC.; NICO FORTE;
CERUVIA LIFESCIENCES f/k/a CH-
TAC; CAREY TURNBULL; RUSSELL
BURBANK, as liquidating trustee for
nominal defendants SAVANT
ADDICTION MEDICINE, LLC and
SAVANT HWP HOLDINGS, LLC;
DOE INDIVIDUALS 1 through 20; and
ROE CORPORATIONS 1 through 20;

Defendants,

and

Case No.

NOTICE OF REMOVAL

1 SAVANT ADDICTION MEDICINE,
2 LLC and SAVANT HWP HOLDINGS,
3 LLC; and SAVANT HWP, INC.,

4
5 Nominal Defendants.

6 Russell Burbank, as Liquidating Trustee for nominal defendants Savant
7 Addiction Medicine, LLC and Savant HWP Holdings, LLC (“Burbank”) removes
8 this case to the United States District Court for the District of Nevada pursuant to 28
9 U.S.C. §§ 1331, 1332(a)(1), 1441, and 1446. In support of removal, Burbank states:

10 **I. INTRODUCTION AND GROUNDS FOR REMOVAL**

11 1. On July 22, 2022, Scott Freeman, M.D (“Trustee”), as trustee for
12 the Scott Mitchell Freeman Revocable Living Trust, dated March 10, 2012 (the
13 “Trust”), for itself and as assignee of Ferdinand Belga (collectively the “Plaintiff”)
14 commenced this action by filing its Complaint (the “Complaint”) in the Eighth
15 Judicial District Court for Clark County, Nevada, as case number A-22-855842-B.
16 *See generally* Ex. 1, Complaint.

17 2. Defendants are entitled to remove this state court action to this
18 Court pursuant to 28 U.S.C. §§ 1331, 1332(a)(1), 1441, and 1446 because Burbank
19 has satisfied the procedural requirements for removal and this Court has original
20 subject-matter jurisdiction over this case as further explained below.

21 **II. BURBANK HAS SATISFIED THE PROCEDURAL REQUIREMENTS
22 FOR REMOVAL**

23 **A. Removal Is Timely.**

24 3. On or about August 5, 2022, Burbank was served with the
Summons and Complaint.

1 4. Because this Notice of Removal is being filed within 30 days of
2 the receipt of service of the summons and Complaint on any named defendant,
3 removal is timely under 28 U.S.C. § 1446(b).

4 5. This Notice of Removal is also filed within one year of
5 commencement of this action as required by 28 U.S.C. § 1446(c)(1).

6 **B. Venue Is Proper.**

7 6. Removal to this Court is proper because it is “the district and
8 division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).
9 Therefore, this action is properly removed to this Court pursuant to 28 U.S.C. § 108.

10 **C. All Defendants Consent to Removal.**

11 7. All served Defendants have notified Burbank that they consent
12 to removal of this case. They will be each be filing a consent to removal.

13 8. Any unnamed Doe and Roe defendants, and nominally named
14 defendants, are disregarded and need not join in removal. *See Emrich v. Touche*
15 *Ross & Co.*, 846 F.2d 1190, 1193 n.1 (9th Cir. 1988) (“nominal, unknown or
16 fraudulently joined parties” need not join in the petition for removal); *Knutson v.*
17 *Allis-Chalmers Corp.*, 358 F. Supp. 2d 983, 991 (D. Nev. 2005) (to same effect).

18 **D. All Other Procedural Requirements Are Satisfied.**

19 9. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint is
20 attached at Exhibit 1.

21 10. The other pleadings served on Defendants or filed in state court
22 prior to removal are as follows:

- 23 a. Motion to Seal/Redact Records (attached at Exhibit 2);
24 b. Peremptory Challenge (attached at Exhibit 3);

- c. Demand for Security of Costs (attached at Exhibits 4–5);
- d. Demand for Change of Venue (attached at Exhibit 6); and
- e. Notice of Appearance (attached at Exhibit 7).

11. No further proceedings have been had in this action in state court prior to removal.

12. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff’s counsel, and a copy is being filed with the Clerk of the Eighth Judicial District Court for Clark County, Nevada.

III. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER 28 U.S.C. §§ 1331, 1367 AND 1441

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this is a civil action “arising under the Constitution, laws or treaties of the United States.” To the extent that the Court does not have original subject matter jurisdiction over any particular claims, it has supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1367 because all such claims “are so related to claims in the action with such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.”

A. This Civil Action Presents A Federal Question.

14. This action is a civil proceeding including a claim over which this Court has original jurisdiction under Title 18 of the United States Code. *See* Ex. 1, Compl. at ¶¶ 290–298. This action is founded on a claim of right arising under the laws of the United States (*see generally* 18 U.S.C. § 1961 *et seq.*) and may be removed to this Court by Defendants pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

B. The Remaining Claims Are Part of the Same Case or Controversy.

15. Plaintiff's federal claim alleges a civil violation of the RICO statutes based on, among other alleged acts, purported fraud (*see* Ex. 1, Compl. at ¶ 292(b-c) (asserting fraud as RICO predicate) & ¶¶ 315-320 (claim for fraudulent conveyance)) and various alleged corporate governance violations (*see* Ex. 1, Compl. at ¶ 292(a) & (d-i) &, *e.g.*, ¶¶ 264-284 (LLC agreement claims)).

16. The same "common nucleus of operative fact(s)" gives rise to Plaintiff's various state and common law claims such that the two would normally be tied together. *See, e.g., Trs. of the Constr. Indus. & Laborers Health & Welfare Tr. v. Desert Valley Landscape Maint., Inc.*, 333 F.3d 923, 925 (9th Cir. 2003).

17. Consequently, the exercise of pendent jurisdiction under 28 U.S.C. § 1367 is constitutional and appropriate. *See, e.g., Bahrapour v. Lampert*, 356 F.3d 969, 978 (9th Cir. 2004).

IV. CONCLUSION

For these reasons, Burbank removes this action from the Eighth Judicial District Court for Clark County, Nevada to this Court pursuant to 28 U.S.C. § 1441.

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Holdings, LLC

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify that I am an employee of Kaempfer Crowell and I hereby certify that service of the **NOTICE OF REMOVAL** was made on today's date by submitting electronically for filing and service with the United States District Court for the District of Nevada through the PACER Electronic Filing System to the addressee(s) shown below:

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DATED September 2, 2022

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